



**California  
First-Year  
Law Students'  
Examination**

**Essay Questions**

**June 24, 2003**

## **ESSAY EXAMINATION INSTRUCTIONS**

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines which are not pertinent to the solution of the problem.

You should answer the questions according to legal theories and principles of general application.

## Question 1

Ted is the President of Chip Co, a small company that makes computer chips for the secondary personal computer market. In the regular course of Chip Co's business Ted did the following:

Ted sent an e-mail to his daughter Pam, a Vice President of Chip Co, which stated: "This is to confirm our conversation of the other day wherein you agreed to make your home garage available next week to Chip Co for storage of Chip Co items. You will be paid \$5.00 per year." Pam e-mailed back, stating, "That's right, Dad; the garage is clean and ready for storage."

Ted also sent an e-mail to Dave, a customer of Chip Co, which stated, "We agree to replace our defective chip in your computer, but only if you agree not to bring any legal action against Chip Co." Dave sent a return e-mail stating that he agreed to these terms.

Ted telephoned Bob, another customer of Chip Co, to confirm that Chip Co will send 100 computer chip units to Bob, who had already fully paid for the units, but only if Bob agreed to pay an additional 10% due to an increase in Chip Co's operating costs. Bob reluctantly agreed, as he needed the chips immediately.

Ted wrote a letter to Silicon Inc., in which Chip Co offered to buy 10 tons of processed silicon during the coming year, at market price, should Chip Co need any silicon. Silicon Inc. responded, agreeing to sell all the silicon to Chip Co that it might want.

Is there adequate consideration for Chip Co's agreements above-described with Pam, Dave, Bob and Silicon, Inc.? Discuss.

## Question 2

Bill and his wife, Alice, fought constantly. On occasion Alice had to miss work when Bill physically beat her up during quarrels. Alice is Chuck's supervisor at Acme Bank. Chuck would like to take over Alice's job at the bank. Knowing of Bill's violent temper, Chuck devised a scheme that he hoped would induce Bill to murder Alice, so that Chuck would be promoted to Alice's position at the bank.

One evening, Chuck followed Bill to his favorite bar. When Bill had become very drunk, Chuck told him that Alice was having an affair with the bank president and that Chuck had found them locked in an embrace in the president's office that very afternoon. Chuck's story was completely fabricated. As Chuck expected, Bill became furious and ran out of the bar in a rage, shouting, "This time I'm going to kill her."

On the way home, Bill, who was still obviously drunk and in a state of severe agitation, stopped at a sporting goods store and bought a shotgun. The store owner, Dave, sold him the gun, even though Bill stated to Dave that he was going to use it to kill his wife. Bill rushed to his house with the gun, looked through a window, and saw Alice sitting at the dining room table playing cards with a neighbor, Emily. He stood outside the window and took aim at Alice. Meanwhile, Emily's husband Fred was coming to pick up his wife. Fred saw Bill and tackled him, hoping to disarm Bill before he fired the gun. Unfortunately, Bill pulled the trigger just as he was tackled by Fred, and the deflected shot hit and killed Emily.

With what crime or crimes, if any, should Chuck, Bill, Dave and Fred be charged and what, if any, defenses should each assert? Discuss.

### Question 3

Flora owns a busy florist shop on a major thoroughfare near a dangerous intersection. The intersection has been the site of recent accidents, some involving cars exiting Flora's parking lot. Because of this situation she hired Attendant to direct traffic into and out of the parking lot and placed a sign at the lot's entrance, visible from the street, which states: "Caution, Cars Entering Street." Flora also instructed Attendant to make sure that the street was clear before sending a car out, but she provided no other instructions or training. She was aware that Attendant was sometimes careless in his work. Attendant, given the clothes he wears, could not be mistaken for a police officer.

One morning, distracted by the line of honking cars that wished to exit the lot, Attendant waved Customer's car out of the parking lot with only a hurried glance to determine if the street was clear. Customer heeded Attendant's signal to exit the lot, but was distracted by her crying baby in the back seat and did not check to see if the street was clear. Businessman, who was driving toward Flora's shop, was dialing his cellular phone, and did not see Customer's car exiting the lot.

Businessman, whose driver's license had expired, collided with Customer. Both drivers were injured and both cars were damaged.

It is a crime to drive with an expired driver's license. It is also a crime to employ a parking attendant who does not possess a special parking attendant license which costs \$50, and requires three hours of safety training relating to operating a parking lot. Any employer of a parking attendant must obtain the license on behalf of the employee and is responsible for ensuring that the employee attends the three hours of safety training. Flora did neither.

On what theory or theories might an action or actions for damages be brought, and what defenses might be anticipated by:

1. Customer against Businessman? Discuss.
2. Customer against Flora? Discuss.
3. Businessman against Flora? Discuss.
4. Customer and Businessman against Attendant? Discuss.

## Question 4

Seller sent Buyer a form letter stating that Seller was “offering for sale a full line of zinc bolts, in 1,000 bolt lots, delivery within 30 days.” The letter concluded by stating, “Responses must be received within ten days.” Attached to the letter was a purchase order form. The front of the purchase order form contained the prices of various bolts followed by blank spaces in which the purchaser could enter the desired quantity of bolts. The back of the purchase order form included the following statement: “Any action for breach of warranty under this contract must be commenced within one year after the cause of action has accrued.”

Upon receipt of Seller’s letter, Buyer immediately copied the description and price of one type of bolt from Seller’s form onto the front of Buyer’s own purchase order form, specified a quantity of 1,000 bolts, and sent the form to Seller, who received it three days later. On the back of Buyer’s form was the following statement: “This order is subject to the terms and conditions below.” Paragraph 4 of said form provided in part: “The parties agree that the four-year limitations period provided in Uniform Commercial Code 2-725(1) shall be applicable.”

Section 2-725(1) of the Uniform Commercial Code states: “An action for breach of any contract for sale must be commenced within four years after the cause of action has accrued. By original agreement the parties may reduce the period of limitation to not less than one year but may not extend it.”

The price of zinc rose dramatically in the two weeks following Seller’s receipt of Buyer’s form. Seller then sent a telegram to Buyer stating: “Because of market conditions we cannot fill your order.” Buyer responded with a demand for delivery.

1. If Seller fails to deliver the bolts, will it be liable for breach of contract? Discuss.
2. If Seller does deliver the bolts and they are defective, what is the applicable limitations period for Buyer to file an action for breach of warranty under the contract? Discuss.